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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/700,256

11/03/2003

Drew Gant

60,210-190

3673

27305

7590

08/18/2009

HOWARD & HOWARD ATTORNEYS PLLC
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Royal Oak, MI 48067

EXAMINER

YABUT, DIANE D

ART UNIT

PAPER NUMBER

3734

MAIL DATE

DELIVERY MODE

08/18/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/700,256	Applicant(s) GANT, DREW	
	Examiner DIANE YABUT	Art Unit 3734	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 November 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 28 and 29 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 28-29 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This action is in response to applicant's amendment received on 11/12/2008.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 28-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Trott** (U.S. Patent No. **5,839,196**) in view of **Evans et al.** (U.S. Patent No. **5,263,972**).

Trott discloses a housing **12** having a body and a head **28** ("distal end of handpiece") that extends forward from said body, said head having a face and a through bore, a driver **29** having a driven portion **20** disposed in said housing and configured to be attached to a drive unit and a locking portion disposed over said face of said head, said locking portion having a through opening (that receives pin **40**) aligned with said through bore, and at least one engaging member **32**, the pin **40** extending through said bore and said through opening, said pin having a head portion **43** disposed over said locking portion with said head portion having an opening (near element **44**) aligned over and positioned to receive the engaging member, said pin being movably mounted to said housing so as to be able to move longitudinally in said through bore and said through opening, and a biasing member **26** acting between said head of said housing and said pin for urging said head portion of said pin towards said at least one

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engaging member (Figures 1 and 6, col. 5, lines 1-63). The opening in the head portion of the pin may be formed "therethrough, as in **452** of Figure 10.

Trott discloses the claimed device except for a cap mounted to said pin so as to be spaced above said head portion of said pin to define a slot of a fixed height between said head portion and said cap for receiving a surgical saw blade, said slot being movable with said pin, and the cap having a bottom face directed towards said head portion with at least one bore aligned with the engaging member and the opening to receive the engaging member.

Evans et al. teach a cap **50** mounted to a pin **31** so as to be spaced above a head portion **51** of said pin to define a slot **55** of a fixed height between said head portion and said cap for receiving a surgical saw blade, said slot being movable with said pin, and the cap having a bottom face directed towards said head portion having at least one bore receiving an engaging member along with an opening in the head portion (see Figures 4A-4). It would have been obvious to one of ordinary skill in the art at the time of invention to modify the pin of Trott to also include a cap with a bore to create a fixed height slot , as taught by Evans et al., in order to facilitate entry of the saw blade for the user and reduce stress on the blade (col. 5, lines 6-11; Figures 6A-6) and to provide a better clamping force on the surgical saw blade for efficient oscillation.

Response to Arguments

3. Applicant's arguments with respect to claims 28-29 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DIANE YABUT whose telephone number is (571)272-6831. The examiner can normally be reached on M-F: 9AM-4PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Todd Manahan can be reached on (571) 272-4713. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Diane Yabut/
Examiner, Art Unit 3734

/Todd E Manahan/
Supervisory Patent Examiner, Art Unit 3734